

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In Re:

Chapter 13

SPIRO MILLIARESSIS & ANN MILLIARESSIS  
\_\_\_\_\_x

Index No. 08-22504

**AFFIRMATION IN SUPPORT OF MOTION**  
**OBJECTING TO CLAIM OF AMERICA’S SERVICING COMPANY, AS SERVICER FOR**  
**AMERIPATH MORTGAGE CORP**

I, Shmuel Klein state that I have knowledge of the following and believe it to be true. I am counsel to the Debtor.

1. This affirmation is in support of the motion objecting to the claim of AMERICA’S SERVICING COMPANY, AS SERVICER FOR AMERIPATH MORTGAGE CORP, annexed hereto as Exhibit “A”.

2. AMERIPATH MORTGAGE CORP obtained a foreclosure judgment recorded on February 28, 2008. The Supreme Court awarded costs and attorney fees, which have precedence pursuant to the Rooker-Feldman doctrine, (see memorandum of law filed herewith) the foreclosure judgment is annexed hereto as Exhibit “B”.

3. The following chart will compare and contrast the objectionable charges and form the factual basis for this objection:

|                   | <u>Foreclosure Judgment</u> | <u>Proof of Claim</u> |  |
|-------------------|-----------------------------|-----------------------|--|
| Foreclosure Costs | 1,800.00                    | 2,680.72              |  |
| Excess            |                             | 880.72                |  |

4. Debtor objects to the charge for the “Property Inspections” fee of \$225.00 and to the “Broker’s Price Opinion” of \$285.00. They are excessive. They should reasonably be \$25.00 each.

5. The costs and attorney fees stated in the foreclosure judgment are binding upon the debtor and the bank and its counsel. As stated in the Memorandum of Law filed herewith, that judgment has judicial estoppel effect and this Court cannot disturb that judgment under the Rooker-Feldman doctrine.

6. There is no question that the claim was filed in bad faith and that the costs are excessive.

WHEREFORE Plaintiff respectfully request that the motion to be granted.

Dated: June 4, 2008  
Spring Valley, New York

\_\_\_\_\_/s/\_\_\_\_\_  
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